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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 JUAN JOSE SALAZAR, et al.,
12 Plaintiffs,

14 v.

15 ARNOLD SCHWARZENEGGER, et al.,
16
17 Defendants.
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NO. CV 07-01854 SJO (VBKx)

**ORDER GRANTING PLAINTIFFS' MOTION
TO REVIEW AND SET ASIDE CLERK'S
ORDERS AWARDING COSTS**

19 This matter is before the Court on Plaintiffs' Motion to Review and Set Aside Clerk's Orders
20 Awarding Costs, filed October 23, 2008. Defendants County of Los Angeles and City of
21 Escondido filed Oppositions, in which Defendants City of Long Beach and City of Los Angeles
22 joined and to which Plaintiffs replied. The Court found this matter suitable for disposition without
23 oral argument and vacated the hearing set for November 17, 2008. See Fed. R. Civ. P. 78(b).
24 Because of the following reasons, Plaintiffs' Motion is GRANTED.

25 I. BACKGROUND

26 Plaintiffs, the owners of cars impounded by law enforcement agencies pursuant to
27 California Vehicle Code § 14602.6, brought suit against Defendants challenging the
28 constitutionality of the statute. The Court granted summary judgment in favor of Defendants on

September 8, 2008. (Docket No. 352). Despite Plaintiffs' objections, the Clerk of the Court taxed Plaintiffs costs in amounts ranging from just under \$1000 to over \$5500 for each Defendant, totaling \$18,426.07. (Docket Nos. 342-347.) Plaintiffs now ask the Court to set aside each Defendants' entire cost bills, or in the alternative to stricken a number of specific items and reduce Defendants' cost bills accordingly. (Pls.' P. & A. 11.)

II. DISCUSSION

Federal Rule of Civil Procedure 54(d)(1) provides that "[u]nless a federal statute, these rules, or a court order provides otherwise, costs—other than attorney's fees—should be allowed to the prevailing party." "By its terms, the rule creates a presumption in favor of awarding costs to a prevailing party, but vests in the district court discretion to refuse to award costs." *Ass'n of Mexican-Am. Educators v. California*, 231 F.3d 572, 591 (9th Cir. 2000). A district court refusing to award costs must "specify reasons" for its refusal to do so. *Id.* Courts have refused to award costs for a variety of reasons, including the losing party's limited financial resources, misconduct on the part of the prevailing party, the economic disparity between the parties, the "chilling effect of imposing such high costs on future civil rights litigants," whether the case "involves issues of substantial public importance," whether the issues in the case are "close and difficult," and whether the plaintiff's case, though unsuccessful, had some merit. *Id.* at 592.

Here, Plaintiffs assert multiple grounds for a denial of costs, including the substantial importance of the issues in the case, the economic disparity between the parties, the complexity of the issues, the merits of their case, and the concern over chilling civil rights litigation. Plaintiffs also argue that Defendants incurred unnecessary costs by failing to raise the argument on which they ultimately prevailed until the summary judgment stage. In support of their economic disparity argument, Plaintiffs submitted a number of declarations that show they are either unemployed or have low incomes roughly equal to or less than their expenses.¹ In addition, many have multiple

¹ Of the Plaintiffs who are employed, most of them have monthly incomes under \$2,000. (Pls.' Decs., Docket No. 358.)

1 family members dependent on them for support, and some are in substantial debt. Each states
2 that paying any portion of Defendants' costs would be a serious financial hardship.

3 Based on Plaintiffs' declarations, the Court finds requiring Plaintiffs to pay Defendants' costs
4 would impose serious financial hardship on them, and that there is a significant economic disparity
5 between them and Defendants. In addition, Plaintiffs' case was not without merit, and was
6 pursued in good faith. Lastly, imposing these costs on Plaintiffs could "chill individual litigants of
7 modest means seeking to vindicate important rights. . . ." See *Washburn v. Fagan*, No. 03-00869,
8 2008 U.S. Dist. LEXIS 13049, at *8 (N.D. Cal. Feb. 11, 2008) (citing *Stanley v. University of S.*
9 *California*, 178 F.3d 1069, 1080 (9th Cir. 1999)); see also *Mansourian v. Bd. of Regents*, No. 03-
10 2591, 2008 U.S. Dist. LEXIS 75014, at *8-9 (E.D. Cal. Jul. 15, 2008) (holding that imposing costs
11 on plaintiffs whose incomes "barely cover [their] monthly expenses" would "likely deter potential
12 litigants from testing the boundaries of our laws"). Thus, the totality of the circumstances of this
13 case makes imposing costs on Plaintiffs inappropriate.

14 III. RULING

15 For the foregoing reasons, Plaintiffs' Motion to Review and Set Aside Clerk's Orders
16 Awarding Costs is GRANTED.

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18 IT IS SO ORDERED.

19
20 November 25, 2008

21 /S/ S. James Otero

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S. JAMES OTERO
UNITED STATES DISTRICT JUDGE
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